

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17338 OF 2024

Suyojit Infrastructure Pvt Ltd & Anr ...Petitioners

Versus

Commissioner of CGST
& Central Excise, Nashik ...Respondent

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WITH
WRIT PETITION NO. 17339 OF 2024

Sun Infrastructure Pvt Ltd & Anr ...Petitioners

Versus

Commissioner of CGST
& Central Excise, Nashik ...Respondent

Mr Vivek M Punjabi, *with Priyansh Jain, for the Petitioners in both Petitions.*

Mr Maya Majumdar, *with Kavita Shukla, for the Respondent in both Petitions.*

CORAM M.S. Sonak &
Jitendra Jain, JJ.
DATED: 02 December 2024

PC:-

1. Heard learned Counsel for the parties.

2. Learned Counsel agree that both these Petitions can be disposed of by a common order.
3. The Petitioner challenges show cause notices issued to them under Section 74 of the Central Goods and Services Tax Act, 2017 (“CGST Act”).
4. In both Petitions, bald and misleading statements have been made that the Petitioners have no alternate or efficacious remedies available to them. The Petition contains no averments that would bring the Petitioners’ case under the parameters prescribed in **Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai and others**¹.
5. Learned Counsel for the Petitioners submits that there are no valid grounds or allegations to invoke the extended period of limitation, and therefore, the impugned show-cause notices are without jurisdiction.
6. Examining the show-cause notices, we find necessary allegations regarding suppression, among other things, in paragraph 16 of the impugned show-cause notices. At this stage, we cannot discuss or decide whether the allegations are correct. That would require the Petitioner to show cause and involve investigation into facts. However, the argument about the absence of accusations cannot be accepted.
7. Recently, by our judgment and order dated 11 November 2024 in Writ Petition (L) No. 33260 of 2023 (**Oberoï Constructions Ltd Vs. The Union of India and Others**), we have surveyed the decisions on the practice of exhaustion of alternate remedies. We have also pointed out to the

¹ (1998) 8 SCC 1

increasing trend of taking chances by instituting Petitions under Articles 226 and 227 of the Constitution of India by making incorrect and frivolous averments in the Petition.

8. Adopting the reasoning in **Oberoi Constructions Ltd** (supra) and the several decisions of the Hon'ble Supreme Court discussed therein, we decline to entertain this Petition, relegating the Petitioner to reply to the show cause notice and take all permissible defences.

9. However, considering that the Petitioners have attempted to take chances and made misleading and incorrect averments in the Petition, we direct the Petitioners to pay a cost of Rs 25,000 each.

10. In writ Petition No. 17338 of 2024, the cost of Rs 25,000 should be paid to the Tata Memorial Hospital. The details of which are as follows:

Bank Name	:	Central Bank of India
Branch	:	Tata Memorial Hospital
Address, Telephone & No. Fax No.	:	Dr. Ernest Borges Road, Parel Mumbai, 400 012. Tel. No. 022-24126487, Fax No. 022-24126487
Bank Account No.	:	1002449683
Account Type	:	Current
IFSC Code	:	CBIN0284241
MICR Code	:	400016112

11. In Writ Petition No. 17339 of 2024, the cost of Rs 25,000/- should be paid to the High Court Class IV Employees' Association. The details whereof are as follows:

Bank Name	:	UCO Bank
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Branch	:	Fort
Bank Account No.	:	00030110032961
IFSC Code	:	UCBA00000003

12. The cost should be paid within four weeks from today.

13. The learned Counsel for the Petitioner states that reply to the show cause notices will be filed within four weeks of today. Suppose such replies are filed within four weeks of today, along with proof of payment of the cost. In that case, the adjudicating authorities must consider them, hear the Petitioner, and pass a reasoned order.

14. All contentions of all parties' are left open to be decided by the adjudicating authorities in the first instance.

15. Both these Petitions are disposed of in the above terms.

16. All concerned to act on an authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)